

UNITED STATES DISTRICT COURT
for the
Southern District of Indiana

MICHAEL HOWARD REED

Plaintiff(s),

vs.

LEANN LARIVA

Defendant(s).

2:15-cv-00212-JMS-MJD

FILED
U.S. DISTRICT COURT
INDIANAPOLIS, INDIANA
2015 AUG 21 PM 2:43
SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

REPLY TO ENTRY ON 8-05-2015 FROM JMS DOCUMENT 6
ON 2241 AS AFFIDAVIT

county of Vigo)
state of Indiana) ss. Affirmed

TO: Hon. Jane Magnus-Stinson
Judge, United States District Court
Southern District of Indiana
105 U.S. Courthouse
46 East Ohio Street
Indianapolis, Indiana 46204

Comes now Michael-Howard-Reed. Petitioner states under the pains of perjury 28 USC § 1746. That Executor- Michael-Howard-Reed. Caused to be Affirmed:

Dear Honorable Judge Magnus-Stinson:

Please accept this letter brief, in lieu of a more formal response, to this Honorable Court's Order, dated August 5, 2015.

Petitioner hereby incorporates by reference all prior submissions.

In a preceding memorandum of law, it was assentuated that the 28 USC § 2241, writ of habeas corpus was being sought because Petitioner is "actually innocent" of the offense of possessing a firearm and ammunition while a fugitive from justice, adjudicated in the United States District Court for the District of North Dakota in case number 4:09-cr-0076-DLH-1.

The jurisdiction of this case is borne in this District, as petitioner is incarcerated at the Federal Correctional Center, Terre Haute, Indiana and has remained in continuous federal custody, since his arrest on these baseless and meritless charges.

There is not a scintilla nor iota of credible, logical nor objective evidence that petitioner was a convicted felon, at the time of the offense, sub judice and the United States Con-

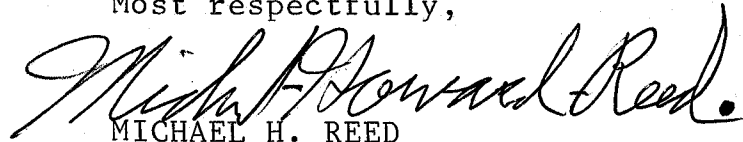
stitution; 1st, 2nd, 6th, 8th and 14th Amendments as well as the progeny of cases unequivocally delineated in the prior motion, permits the filing of this action.

In the case of McQuiggin v. Perkins, 133 S.Ct. 1924, 185 L.Ed.2d 1019, 2013 U.S. LEXIS 4068, 81 U.S.L.W. 4327, No. 12-126 (2013), the Supreme Court clearly enunciated, without equivocation and not subject to interpretation, that "actual innocence," (just as petitioner is asserting) serves as a gateway through which a petitioner may pass whether the impediment is a procedural bar or expiration of the statute of limitations. Although petitioner is statutorily barred from pursuing relief, in accord with 28 USC § 2255 (pursuant to the Antiterrorism and Effective Death Penalty Act of 1996, 110 Stat. 1214), he has a cause of action under 2241.

To deny petitioner jurisdiction and relief is tantamount to the Court endorsing a known and grave miscarriage of justice. The Supreme Court, as far back as Holland v. Florida, 560 U.S. 130, 130 S.Ct. 2549, 177 L.Ed.2d 130 (2010), and Schlup v. Delo, 513 U.S. 298, 115 S.Ct. 851, 130 L.Ed.2d 808 (1995), have stood for this seminal principle; but it is McQuiggin v. Perkins, *infra*, that provides this strategic mechanism and vehicle, allowing this Honorable Court to decide this case.

Henceforth, petitioner has duly satisfied the mandates of 28 USC § 2255(e), as "actual innocence" of the offense and the dictates of the highest Court in our land, are far more potent and decisive than Brown v. Rios, 696 F.3d 638, 640 (7th Cir. 2012), and In re Davenport, 147 F.3d 605, 610-12 (7th Cir. 1998); which would also fail to bar this "actual innocence" claim by habeas corpus.

Most respectfully,


MICHAEL H. REED

Dated: 08-14-2015

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vs.

LEANN LARIVA

Defendant(s).

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)
) 2:15-cv-00212-JMS-MJD
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)
)

CERTIFICAT OF SERVICE AS AFFADAVIT

County of Reed. Vigo)

) ss. Affadavit

State of Reed. Indiana.)

Comes now Michael-Howard-Reed. Petitioner States
under the pains of purjury 28§ 1746. That Executor-Michael-Howard-
Reed. Caused to be mailed first class postage pre-paid notice
And reply to entry on 08-05-2015, from JMS document#6 on 2241
as affidavit;

On 08-14-2015 In the institution mail Box. ~~USPS tracking -- Number --~~
To the court clerk at 921 ohio St. terre-
Haute. IN. 47807. and ~~to respondent, LEANN LARIVA. ACTING COMPLEX-~~
~~WARDEN, 4200 Bureau Road North, Terre Haute, IN. 47807. == USPS ==~~
~~Tracking Number#~~

Respectfully



Michael-Howard-Reed,

Cc.

Bcc.

Michael Reed

Case 2:15-cv-00212-JMS-MJD Document 7-1 Filed 08/21/15 Page 1 of 1 PageID #: 25

Name

04414-048

Reg. No.

- ☐ ~~Federal Prison Camp~~
~~P.O. Box 12014~~
~~Terre Haute, IN 47801~~
- ☒ Federal Correctional Institution
P.O. Box 33 *CMU*
Terre Haute, IN 47808
- ☐ ~~U.S. Penitentiary~~
~~P.O. Box 12015~~
~~Terre Haute, IN 47801~~

Jeffrey Merrill

UNITED STATES MARSHAL
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INDIANAPOLIS IN 46201

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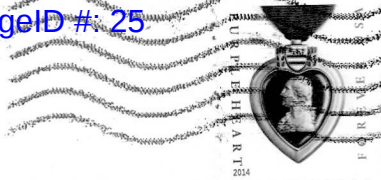
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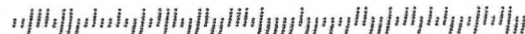
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08/14/2015